

CHAPTER 320

**PROFESSIONS AND OCCUPATIONS**

**HOUSE BILL 93-1051**

BY REPRESENTATIVES Owen, Acquafresca, Armstrong, Benavidez, Duke, Fleming, Greenwood, R. Hernandez, Lyle, Pfiffner, Pierson, Reeser, Rupert, and Wright;  
also SENATORS Mendez, Casey, Cassidy, Johnson, Mares, Martinez, Pastore, Peterson, L. Powers, Rizzuto, and Roberts.

**AN ACT**

**CONCERNING THE PRACTICE OF MIDWIFERY, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-36-106 (1) (f), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-36-106. Practice of medicine defined - exemptions from licensing requirements.** (1) For the purpose of this article "practice of medicine" means:

(f) The practice of midwifery, except:

(I) Services rendered by nurse-midwives licensed pursuant to article 38 of this title and certified by the American college of nurse midwives; OR

(II) (A) SERVICES RENDERED BY A PERSON PROPERLY REGISTERED AS A DIRECT-ENTRY MIDWIFE AND PRACTICING IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 37 OF THIS TITLE.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 1996.

**SECTION 2.** Article 37 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**ARTICLE 37**  
**Midwives**

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**12-37-101. Scope of article - exemptions.** (1) THE PROVISIONS OF THIS ARTICLE SHALL APPLY ONLY TO DIRECT-ENTRY MIDWIVES, ALSO KNOWN AS "LAY" MIDWIVES, AND SHALL NOT APPLY TO THOSE PERSONS WHO ARE OTHERWISE LICENSED BY THE STATE OF COLORADO UNDER THIS TITLE IF THE PRACTICE OF MIDWIFERY IS WITHIN THE SCOPE OF SUCH LICENSURE. NO PERSON WHO IS A LICENSED HEALTH CARE PROVIDER UNDER ANY OTHER ARTICLE OF THIS TITLE SHALL SIMULTANEOUSLY BE SO LICENSED AND ALSO BE REGISTERED UNDER THIS ARTICLE. A LICENSED HEALTH CARE PROVIDER WHO HOLDS A LICENSE IN GOOD STANDING MAY RELINQUISH SAID LICENSE AND SUBSEQUENTLY BE REGISTERED UNDER THIS ARTICLE. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT HEALTH CARE BE PROVIDED PURSUANT TO THIS ARTICLE AS AN ALTERNATIVE TO TRADITIONAL LICENSED HEALTH CARE AND NOT FOR THE PURPOSE OF ENABLING PROVIDERS OF TRADITIONAL LICENSED HEALTH CARE TO CIRCUMVENT THE REGULATORY OVERSIGHT TO WHICH THEY ARE OTHERWISE SUBJECT UNDER ANY OTHER ARTICLE OF THIS TITLE.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT, OR TO REQUIRE REGISTRATION UNDER THIS ARTICLE, WITH REGARD TO:

(a) THE GRATUITOUS RENDERING OF SERVICES IN AN EMERGENCY;

(b) THE RENDERING OF SERVICES BY A PHYSICIAN LICENSED PURSUANT TO ARTICLE 36 OF THIS TITLE OR OTHERWISE LEGALLY AUTHORIZED TO PRACTICE IN THIS STATE;

(c) THE RENDERING OF SERVICES BY NURSE-MIDWIVES LICENSED PURSUANT TO ARTICLE 38 OF THIS TITLE AND CERTIFIED BY THE AMERICAN COLLEGE OF NURSE MIDWIVES; OR

(d) THE PRACTICE BY PERSONS LICENSED OR REGISTERED UNDER ANY LAW OF THIS STATE, IN ACCORDANCE WITH SUCH LAW, TO PRACTICE A LIMITED FIELD OF THE HEALING ARTS NOT SPECIFICALLY DESIGNATED IN THIS SECTION.

**12-37-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIRECT-ENTRY MIDWIFE" MEANS A PERSON WHO PRACTICES TRADITIONAL, DIRECT-ENTRY MIDWIFERY AS DEFINED IN SUBSECTION (2) OF THIS SECTION FOR COMPENSATION.

(2) "DIRECT-ENTRY MIDWIFERY" OR "PRACTICE OF DIRECT-ENTRY MIDWIFERY" MEANS THE ADVISING, ATTENDING, OR ASSISTING OF A WOMAN DURING PREGNANCY, LABOR AND NATURAL CHILDBIRTH AT HOME, AND DURING THE POSTPARTUM PERIOD IN ACCORDANCE WITH THIS ARTICLE.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

(4) "NATURAL CHILDBIRTH" MEANS THE BIRTH OF A CHILD WITHOUT THE USE OF PRESCRIPTION DRUGS, INSTRUMENTS, OR SURGICAL PROCEDURES.

(5) "POSTPARTUM PERIOD" MEANS THE PERIOD OF SIX WEEKS AFTER BIRTH.

(6) "REGISTRANT" MEANS A DIRECT-ENTRY MIDWIFE REGISTERED PURSUANT TO SECTION 12-37-103.

**12-37-103. Requirement for registration with the division of registrations - annual fee - grounds for revocation.** (1) EVERY DIRECT-ENTRY MIDWIFE SHALL REGISTER WITH THE DIVISION OF REGISTRATIONS BY PROVIDING AN APPLICATION TO THE DIRECTOR IN THE FORM THE DIRECTOR SHALL REQUIRE. SAID APPLICATION SHALL INCLUDE THE INFORMATION SPECIFIED IN SECTION 12-37-104.

(2) ANY CHANGES IN THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE REPORTED WITHIN THIRTY DAYS OF SAID CHANGE TO THE DIVISION OF REGISTRATIONS IN THE MANNER PRESCRIBED BY THE DIRECTOR.

(3) EVERY APPLICANT FOR REGISTRATION SHALL PAY AN ANNUAL REGISTRATION FEE TO BE ESTABLISHED BY THE DIRECTOR IN THE MANNER AUTHORIZED BY SECTION 24-34-105, C.R.S.

(4) THE DIRECTOR MAY DENY REGISTRATION TO OR REVOKE THE REGISTRATION OF A DIRECT-ENTRY MIDWIFE PURSUANT TO SECTION 24-4-104, C.R.S., IF THE DIRECTOR FINDS THAT THE DIRECT-ENTRY MIDWIFE HAS:

(a) FAILED TO PROVIDE ANY INFORMATION REQUIRED, OR TO PAY ANY FEE ASSESSED, IN ACCORDANCE WITH THIS SECTION, OR PROVIDED FALSE, DECEPTIVE, OR MISLEADING INFORMATION TO THE DIVISION OF REGISTRATIONS WHEN THE DIRECT-ENTRY MIDWIFE KNEW OR SHOULD REASONABLY HAVE KNOWN THAT THE INFORMATION WAS FALSE, DECEPTIVE, OR MISLEADING;

(b) BEEN RESPONSIBLE FOR ANY ACT OR OMISSION WHICH DOES NOT MEET GENERALLY ACCEPTED STANDARDS OF SAFE CARE FOR WOMEN AND INFANTS, WHETHER OR NOT ACTUAL INJURY TO A PATIENT IS ESTABLISHED;

(c) VIOLATED ANY PROVISION OF SECTION 12-37-105;

(d) HABITUAL INTEMPERANCE WITH REGARD TO OR EXCESSIVE USE OF ANY HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), OR ANY ALCOHOLIC BEVERAGE; OR

(e) VIOLATED ANY RULE OF THE DIRECTOR PROMULGATED UNDER THIS ARTICLE.

(5) TO QUALIFY TO REGISTER, A DIRECT-ENTRY MIDWIFE SHALL HAVE SUCCESSFULLY COMPLETED AN EXAMINATION EVALUATED AND APPROVED BY THE DIRECTOR AS AN APPROPRIATE TEST TO MEASURE COMPETENCY IN THE PRACTICE OF DIRECT-ENTRY MIDWIFERY, WHICH EXAMINATION SHALL HAVE BEEN DEVELOPED BY A PERSON OR ENTITY OTHER THAN THE DIRECTOR OR THE DIVISION AND THE ACQUISITION OF WHICH SHALL REQUIRE NO EXPENDITURE OF STATE FUNDS. THE NATIONAL REGISTRY EXAMINATION ADMINISTERED BY THE MIDWIVES' ALLIANCE OF NORTH AMERICA, INCORPORATED, SHALL BE AMONG THOSE EVALUATED BY THE DIRECTOR. THE DIRECTOR IS AUTHORIZED TO APPROVE ANY EXISTING TEST MEETING ALL THE CRITERIA SET FORTH IN THIS SUBSECTION (5). IN ADDITION TO SUCCESSFULLY COMPLETING SUCH EXAMINATION, A DIRECT-ENTRY MIDWIFE SHALL BE DEEMED

QUALIFIED TO REGISTER IF SUCH PERSON HAS:

- (a) ATTAINED THE AGE OF EIGHTEEN YEARS;
- (b) EARNED AT LEAST A HIGH SCHOOL DIPLOMA OR THE EQUIVALENT;
- (c) SUCCESSFULLY COMPLETED TRAINING APPROVED BY THE DIRECTOR IN:
  - (I) THE PROVISION OF CARE DURING LABOR AND DELIVERY AND DURING THE ANTEPARTUM AND POSTPARTUM PERIODS;
  - (II) PARENTING EDUCATION FOR PREPARED CHILDBIRTH;
  - (III) ASEPTIC TECHNIQUES AND UNIVERSAL PRECAUTIONS;
  - (IV) MANAGEMENT OF BIRTH AND IMMEDIATE CARE OF THE MOTHER AND THE NEWBORN;
  - (V) RECOGNITION OF EARLY SIGNS OF POSSIBLE ABNORMALITIES;
  - (VI) RECOGNITION AND MANAGEMENT OF EMERGENCY SITUATIONS;
  - (VII) SPECIAL REQUIREMENTS FOR HOME BIRTH;
  - (VIII) RECOGNITION OF COMMUNICABLE DISEASES AFFECTING THE PREGNANCY, BIRTH, NEWBORN, AND POSTPARTUM PERIODS; AND
  - (IX) RECOGNITION OF THE SIGNS AND SYMPTOMS OF INCREASED RISK OF MEDICAL, OBSTETRIC, OR NEONATAL COMPLICATIONS OR PROBLEMS AS SET FORTH IN SECTION 12-37-105 (3).
- (d) ACQUIRED PRACTICAL EXPERIENCE IN A HOME SETTING, INCLUDING, AT A MINIMUM, APPRENTICESHIP PROVIDING EXPERIENCE WITH THE CONDUCT OF ONE HUNDRED PRENATAL EXAMINATIONS ON NO FEWER THAN THIRTY DIFFERENT WOMEN AND OBSERVATION OF THIRTY BIRTHS;
- (e) FOLLOWING COMPLETION OF THE EDUCATION, TRAINING, AND EXPERIENCE ENUMERATED IN PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (5), SUPERVISED PARTICIPATION AS THE PRIMARY BIRTH ATTENDANT, INCLUDING RENDERING CARE FROM THE PRENATAL PERIOD THROUGH THE POSTPARTUM PERIOD, IN CONNECTION WITH NO LESS THAN THIRTY BIRTHS; AND
- (f) FILED DOCUMENTATION WITH THE DIRECTOR THAT THE DIRECT-ENTRY MIDWIFE IS CURRENTLY CERTIFIED BY THE AMERICAN HEART ASSOCIATION OR THE AMERICAN RED CROSS TO PERFORM ADULT AND INFANT CARDIOPULMONARY RESUSCITATION ("CPR").

**12-37-104. Mandatory disclosure of information to patients.** (1) EVERY DIRECT-ENTRY MIDWIFE SHALL PROVIDE THE FOLLOWING INFORMATION IN WRITING TO EACH PATIENT DURING THE INITIAL PATIENT CONTACT:

(a) THE NAME, BUSINESS ADDRESS, AND BUSINESS PHONE NUMBER OF THE DIRECT-ENTRY MIDWIFE;

(b) A LISTING OF THE DIRECT-ENTRY MIDWIFE'S EDUCATION, EXPERIENCE, DEGREES, MEMBERSHIP IN ANY PROFESSIONAL ORGANIZATION WHOSE MEMBERSHIP INCLUDES NOT LESS THAN ONE-THIRD OF ALL REGISTRANTS, CERTIFICATES OR CREDENTIALS RELATED TO DIRECT-ENTRY MIDWIFERY AWARDED BY ANY SUCH ORGANIZATION, AND THE LENGTH OF TIME AND NUMBER OF CONTACT HOURS REQUIRED TO OBTAIN SAID DEGREES, CERTIFICATES, OR CREDENTIALS;

(c) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY MIDWIFE IS COVERED UNDER A POLICY OF LIABILITY INSURANCE FOR THE PRACTICE OF DIRECT-ENTRY MIDWIFERY;

(d) A LISTING OF ANY LICENSE, CERTIFICATE, OR REGISTRATION IN THE HEALTH CARE FIELD PREVIOUSLY HELD BY THE DIRECT-ENTRY MIDWIFE AND REVOKED BY ANY LOCAL, STATE, OR NATIONAL HEALTH CARE AGENCY;

(e) A STATEMENT THAT THE PRACTICE OF DIRECT-ENTRY MIDWIFERY IS REGULATED BY THE DEPARTMENT OF REGULATORY AGENCIES. THE STATEMENT SHALL PROVIDE THE ADDRESS AND TELEPHONE NUMBER OF THE COMPLAINTS AND INVESTIGATIONS SECTION OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES AND SHALL STATE THAT VIOLATION OF THE PROVISIONS OF THIS ARTICLE MAY RESULT IN REVOCATION OF REGISTRATION AND OF THE AUTHORITY TO PRACTICE DIRECT-ENTRY MIDWIFERY IN THE STATE OF COLORADO; AND

(f) A COPY OF THE EMERGENCY PLAN AS PROVIDED IN SECTION 12-37-105 (6).

(2) ANY CHANGES IN THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE REFLECTED IN THE MANDATORY DISCLOSURE WITHIN FIVE DAYS OF THE SAID CHANGE.

(3) FOR PURPOSES OF REGISTRATION UNDER THIS ARTICLE, NO CREDENTIALS, LICENSURE, OR CERTIFICATION ISSUED BY ANY OTHER STATE SHALL CONSTITUTE OR BE DEEMED TO MEET THE REQUIREMENTS OF THIS ARTICLE, AND TO THAT EXTENT THERE SHALL BE NO RECIPROCITY WITH OTHER STATES.

**12-37-105. Prohibited acts - practice standards - informed consent - emergency plan - risk assessment - referral.** (1) A DIRECT-ENTRY MIDWIFE SHALL NOT DISPENSE OR ADMINISTER ANY MEDICATION OR DRUGS EXCEPT FOR REQUIRED EYE PROPHYLACTIC THERAPY.

(2) A DIRECT-ENTRY MIDWIFE SHALL NOT PERFORM ANY OPERATIVE OR SURGICAL PROCEDURE.

(3) A DIRECT-ENTRY MIDWIFE SHALL NOT PROVIDE CARE TO A PREGNANT WOMAN WHO, ACCORDING TO GENERALLY ACCEPTED MEDICAL STANDARDS, EXHIBITS SIGNS OR SYMPTOMS OF INCREASED RISK OF MEDICAL OR OBSTETRIC OR NEONATAL COMPLICATIONS OR PROBLEMS DURING THE COMPLETION OF HER PREGNANCY, LABOR, DELIVERY, OR THE POSTPARTUM PERIOD. SUCH CONDITIONS INCLUDE BUT ARE NOT LIMITED TO SIGNS OR SYMPTOMS OF DIABETES, MULTIPLE GESTATION, HYPERTENSIVE

DISORDER, OR ABNORMAL PRESENTATION OF THE FETUS.

(4) A DIRECT-ENTRY MIDWIFE SHALL NOT PROVIDE CARE TO A PREGNANT WOMAN WHO, ACCORDING TO GENERALLY ACCEPTED MEDICAL STANDARDS, EXHIBITS SIGNS OR SYMPTOMS OF INCREASED RISK THAT HER CHILD MAY DEVELOP COMPLICATIONS OR PROBLEMS DURING THE FIRST SIX WEEKS OF LIFE.

(5) A DIRECT-ENTRY MIDWIFE SHALL KEEP APPROPRIATE RECORDS OF MIDWIFERY-RELATED ACTIVITY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(a) THE DIRECT-ENTRY MIDWIFE SHALL COMPLETE AND FILE A BIRTH CERTIFICATE FOR EVERY DELIVERY IN ACCORDANCE WITH SECTION 25-2-112, C.R.S.

(b) THE DIRECT-ENTRY MIDWIFE SHALL COMPLETE AND MAINTAIN APPROPRIATE CLIENT RECORDS FOR EVERY CLIENT.

(c) PRIOR TO ACCEPTING A CLIENT FOR CARE, THE DIRECT-ENTRY MIDWIFE SHALL OBTAIN THE CLIENT'S INFORMED CONSENT, WHICH SHALL BE EVIDENCED BY A WRITTEN STATEMENT IN A FORM PRESCRIBED BY THE DIRECTOR AND SIGNED BY BOTH THE DIRECT-ENTRY MIDWIFE AND THE CLIENT. THE FORM SHALL CERTIFY THAT FULL DISCLOSURE HAS BEEN MADE AND ACKNOWLEDGED BY THE CLIENT AS TO EACH OF THE FOLLOWING ITEMS, WITH THE CLIENT'S ACKNOWLEDGMENT EVIDENCED BY A SEPARATE SIGNATURE OR INITIALS ADJACENT TO EACH ITEM IN ADDITION TO THE CLIENT'S SIGNATURE AT THE END OF THE FORM:

(I) THE DIRECT-ENTRY MIDWIFE'S EDUCATIONAL BACKGROUND AND TRAINING;

(II) THE NATURE AND SCOPE OF THE CARE TO BE GIVEN, INCLUDING THE POSSIBILITY OF AND PROCEDURE FOR TRANSPORT OF THE CLIENT TO A HOSPITAL AND TRANSFERRAL OF CARE PRENATALLY;

(III) THE AVAILABLE ALTERNATIVES TO DIRECT-ENTRY MIDWIFERY CARE;

(IV) A DESCRIPTION OF THE RISKS OF BIRTH, INCLUDING BUT NOT LIMITED TO THOSE THAT ARE DIFFERENT FROM THOSE OF HOSPITAL BIRTH AND INCLUDING BUT NOT LIMITED TO THOSE CONDITIONS THAT MAY ARISE DURING DELIVERY;

(V) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY MIDWIFE IS COVERED UNDER A POLICY OF LIABILITY INSURANCE FOR THE PRACTICE OF DIRECT-ENTRY MIDWIFERY; AND

(VI) A STATEMENT INFORMING THE CLIENT THAT, IN THE EVENT SUBSEQUENT CARE IS REQUIRED RESULTING FROM THE ACTS OR OMISSIONS OF THE DIRECT-ENTRY MIDWIFE, ANY PHYSICIAN, NURSE, PREHOSPITAL EMERGENCY PERSONNEL, AND HEALTH CARE INSTITUTION RENDERING SUCH CARE SHALL BE HELD ONLY TO A STANDARD OF GROSS NEGLIGENCE OR WILLFUL AND WANTON CONDUCT.

(d) AS USED IN THIS SUBSECTION (5), "FULL DISCLOSURE" INCLUDES READING THE INFORMED CONSENT FORM TO THE CLIENT, IN A LANGUAGE UNDERSTOOD BY THE CLIENT, AND ANSWERING ANY RELEVANT QUESTIONS.

(6) A DIRECT-ENTRY MIDWIFE SHALL PREPARE A PLAN AND PROCEDURE, IN A FORM PRESCRIBED BY THE DIRECTOR, FOR EMERGENCY SITUATIONS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, SITUATIONS IN WHICH THE TIME REQUIRED FOR TRANSPORTATION TO THE NEAREST FACILITY CAPABLE OF PROVIDING APPROPRIATE TREATMENT EXCEEDS LIMITS ESTABLISHED BY THE DIRECTOR BY RULE. A COPY OF SUCH PLAN SHALL BE GIVEN TO EACH CLIENT AS PART OF THE INFORMED CONSENT REQUIRED BY SUBSECTION (5) OF THIS SECTION.

(7) A DIRECT-ENTRY MIDWIFE SHALL PREPARE AND TRANSMIT APPROPRIATE SPECIMENS FOR NEWBORN SCREENING IN ACCORDANCE WITH SECTION 25-4-1004, C.R.S.

(8) A DIRECT-ENTRY MIDWIFE SHALL ENSURE THAT APPROPRIATE LABORATORY TESTING, AS DETERMINED BY THE DIRECTOR, IS COMPLETED FOR EACH PREGNANT WOMAN IN SUCH DIRECT-ENTRY MIDWIFE'S CARE.

(9) A DIRECT-ENTRY MIDWIFE SHALL PROVIDE EYE PROPHYLACTIC THERAPY TO ALL NEWBORN CHILDREN IN SUCH DIRECT-ENTRY MIDWIFE'S CARE IN ACCORDANCE WITH SECTION 25-4-303, C.R.S.

(10) A DIRECT-ENTRY MIDWIFE SHALL BE KNOWLEDGEABLE AND SKILLED IN ASEPTIC PROCEDURES AND THE USE OF UNIVERSAL PRECAUTIONS AND SHALL USE THEM WITH EVERY CLIENT.

(11) TO ASSURE THAT PROPER RISK ASSESSMENT IS COMPLETED AND THAT CLIENTS WHO ARE INAPPROPRIATE FOR DIRECT-ENTRY MIDWIFERY ARE REFERRED TO OTHER HEALTH CARE PROVIDERS, THE DIRECTOR SHALL ESTABLISH, BY RULE, A RISK ASSESSMENT PROCEDURE TO BE FOLLOWED BY A DIRECT-ENTRY MIDWIFE FOR EACH CLIENT AND STANDARDS FOR APPROPRIATE REFERRAL. SUCH ASSESSMENT SHALL BE A PART OF EACH CLIENT'S RECORD AS REQUIRED IN SECTION 12-37-105 (5) (b).

(12) AT THE TIME OF RE-REGISTRATION, EACH REGISTRANT SHALL SUBMIT THE FOLLOWING DATA ON A FORM PRESCRIBED BY THE DIRECTOR:

(a) THE NUMBER OF WOMEN TO WHOM CARE WAS PROVIDED SINCE THE PREVIOUS REGISTRATION;

(b) THE NUMBER OF DELIVERIES PERFORMED;

(c) THE APGAR SCORES OF DELIVERED INFANTS, IN GROUPINGS ESTABLISHED BY THE DIRECTOR;

(d) THE NUMBER OF PRENATAL TRANSFERS;

(e) THE NUMBER OF TRANSFERS DURING LABOR, DELIVERY, AND IMMEDIATELY FOLLOWING BIRTH;

(f) ANY PERINATAL DEATHS; AND

(g) OTHER MORBIDITY STATISTICS AS REQUIRED BY THE DIRECTOR.

**12-37-106. Director - powers and duties.** (1) IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED ON THE DIRECTOR BY LAW, THE DIRECTOR HAS THE FOLLOWING POWERS AND DUTIES:

(a) TO ADOPT SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE;

(b) TO ESTABLISH THE FEES FOR REGISTRATION AND RENEWAL OF REGISTRATION IN THE MANNER AUTHORIZED BY SECTION 24-34-105, C.R.S.;

(c) TO PREPARE OR ADOPT SUITABLE STANDARDS FOR EDUCATION AND TRAINING PROGRAMS AND EXAMINATIONS, WHICH MAY CONSIST OF PROGRAMS AND EXAMINATIONS DEVELOPED BY PERSONS OR ENTITIES OTHER THAN THE DIRECTOR AND APPROVED OR CERTIFIED BY THE DIRECTOR; EXCEPT THAT, IN PREPARING OR ADOPTING THE INITIAL EXAMINATION REQUIRED FOR REGISTRATION, THE DIRECTOR SHALL CONSULT WITH CERTIFIED NURSE-MIDWIVES, QUALIFIED PHYSICIANS, AND QUALIFIED DIRECT-ENTRY MIDWIVES AS TO THE VALIDITY AND SCOPE OF THE EXAMINATION;

(d) TO ACCEPT APPLICATIONS FOR REGISTRATION WHICH MEET THE REQUIREMENTS SET FORTH IN THIS ARTICLE, AND TO COLLECT THE ANNUAL REGISTRATION FEES AUTHORIZED BY THIS ARTICLE;

(e) TO SEEK, THROUGH THE OFFICE OF THE ATTORNEY GENERAL, AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY PERSON FROM COMMITTING ANY ACT PROHIBITED BY THIS ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (e), THE DIRECTOR SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED VIOLATION OF THIS ARTICLE.

**12-37-107. Disciplinary action authorized.** (1) IF A DIRECT-ENTRY MIDWIFE HAS VIOLATED ANY OF THE PROVISIONS OF SECTION 12-37-103, 12-37-104, OR 12-37-105, THE DIRECTOR MAY DENY, REVOKE, OR SUSPEND ANY REGISTRATION, ISSUE A LETTER OF ADMONITION TO A REGISTRANT, PLACE A REGISTRANT ON PROBATION, OR APPLY FOR A TEMPORARY OR PERMANENT INJUNCTION AGAINST A DIRECT-ENTRY MIDWIFE, THROUGH THE ATTORNEY GENERAL, IN ANY COURT OF COMPETENT JURISDICTION, ENJOINING SUCH DIRECT-ENTRY MIDWIFE FROM PRACTICING MIDWIFERY OR COMMITTING ANY VIOLATION OF THE PROVISIONS OF THE SAID SECTION 12-37-103, 12-37-104, OR 12-37-105. SUCH INJUNCTIVE PROCEEDINGS SHALL BE IN ADDITION TO AND NOT IN LIEU OF ANY OTHER PENALTIES OR REMEDIES PROVIDED IN THIS ARTICLE.

(2) AS AN ALTERNATIVE TO OR IN ADDITION TO A SUSPENSION OR REVOCATION OF REGISTRATION UNDER SECTION 12-37-103 (4), THE DIRECTOR MAY ASSESS A CIVIL PENALTY IN THE FORM OF A FINE, NOT TO EXCEED FIVE THOUSAND DOLLARS, FOR ANY ACT OR OMISSION ENUMERATED IN THE SAID SECTION.

**12-37-108. Criminal penalties.** (1) ANY PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE DIRECT-ENTRY MIDWIFERY WITHOUT FIRST COMPLYING WITH THE REGISTRATION REQUIREMENTS OF SECTION 12-37-103 AND THE DISCLOSURE REQUIREMENTS OF SECTION 12-37-104 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S., FOR THE FIRST OFFENSE, AND

FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, SUCH PERSON COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-105, C.R.S.

**12-37-109. Assumption of risk - no vicarious liability - legislative declaration.**

(1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE AUTHORITY GRANTED IN THIS ARTICLE FOR THE PROVISION OF UNLICENSED MIDWIFERY SERVICES DOES NOT CONSTITUTE AN ENDORSEMENT OF SUCH PRACTICES, AND THAT IT IS INCUMBENT UPON THE INDIVIDUAL SEEKING SUCH SERVICES TO ASCERTAIN THE QUALIFICATIONS OF THE REGISTRANT DIRECT-ENTRY MIDWIFE. IT IS THE POLICY OF THIS STATE THAT REGISTRANTS SHALL BE LIABLE FOR THEIR ACTS OR OMISSIONS IN THE PERFORMANCE OF THE SERVICES THAT THEY PROVIDE, AND THAT NO LICENSED PHYSICIAN, NURSE, PREHOSPITAL EMERGENCY MEDICAL PERSONNEL, OR HEALTH CARE INSTITUTION SHALL BE LIABLE FOR ANY ACT OR OMISSION RESULTING FROM THE ADMINISTRATION OF SERVICES BY ANY REGISTRANT. THE PROVISIONS OF THIS SUBSECTION (1) SHALL NOT RELIEVE ANY PHYSICIAN, NURSE, PREHOSPITAL EMERGENCY PERSONNEL, OR HEALTH CARE INSTITUTION FROM LIABILITY FOR ANY WILLFUL AND WANTON ACT OR OMISSION OR ANY ACT OR OMISSION CONSTITUTING GROSS NEGLIGENCE, OR UNDER CIRCUMSTANCES WHERE A REGISTRANT HAS A BUSINESS OR SUPERVISED RELATIONSHIP WITH ANY SUCH PHYSICIAN, NURSE, PREHOSPITAL EMERGENCY PERSONNEL, OR HEALTH CARE INSTITUTION. A PHYSICIAN, NURSE, PREHOSPITAL EMERGENCY PERSONNEL, OR HEALTH CARE INSTITUTION MAY PROVIDE CONSULTATION OR EDUCATION TO THE REGISTRANT WITHOUT ESTABLISHING A BUSINESS OR SUPERVISORY RELATIONSHIP.

(b) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE LIMITATION ON LIABILITY PROVIDED IN SECTION 13-64-302, C.R.S., IS PREDICATED UPON FULL LICENSURE, DISCIPLINE, AND REGULATORY OVERSIGHT AND THAT THE PRACTICE OF UNLICENSED MIDWIFERY BY REGISTRANTS PURSUANT TO THIS ARTICLE IS AUTHORIZED AS AN ALTERNATIVE TO SUCH FULL LICENSURE, DISCIPLINE, AND REGULATORY OVERSIGHT AND IS THEREFORE NOT SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION 13-64-302, C.R.S.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO INDICATE OR IMPLY THAT A REGISTRANT PROVIDING SERVICES UNDER THIS ARTICLE IS A LICENSED HEALTH CARE PROVIDER FOR THE PURPOSES OF REIMBURSEMENT BY ANY HEALTH INSURER, THIRD PARTY PAYER, OR GOVERNMENTAL HEALTH CARE PROGRAM.

(3) AT SUCH TIME AS LIABILITY INSURANCE BECOMES AVAILABLE AT AN AFFORDABLE PRICE, THE DIRECT-ENTRY MIDWIFE SHALL BE REQUIRED TO CARRY SUCH INSURANCE.

**12-37-110. Repeal of article.** THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1996.

**SECTION 3.** 10-4-403 (2.1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-4-403. Standards for rates - competition - procedure - requirement for independent actuarial opinions regarding 1991 legislation.** (2.1) (e) (I) NO MEDICAL MALPRACTICE INSURER SHALL BE REQUIRED TO PROVIDE LIABILITY COVERAGE FOR UNLICENSED MIDWIVES WHO ARE REGISTERED AND PROVIDING

SERVICES IN ACCORDANCE WITH ARTICLE 37 OF TITLE 12, C.R.S., NOR SHALL ANY MEDICAL MALPRACTICE INSURER BE REQUIRED TO INCLUDE IN ANY RATE SETTING OR CLASSIFICATION BOTH LICENSED PHYSICIANS OR CERTIFIED NURSE MIDWIVES AND UNLICENSED MIDWIVES. THE COMMISSIONER SHALL NEITHER APPROVE NOR ALLOW ANY UNDERWRITING OR ACTUARIAL PRACTICE OR ANY RATE WHICH HAS THE EFFECT OF REQUIRING INSURED PHYSICIANS AND CERTIFIED NURSE MIDWIVES TO SUBSIDIZE THE RISKS OF UNLICENSED MIDWIVES.

(II) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JULY 1, 1996.

**SECTION 4.** 13-64-202 (4), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-64-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(4) (a) "Health care professional" means any person licensed in this state or any other state to practice medicine, chiropractic, nursing, physical therapy, podiatry, dentistry, pharmacy, optometry, or other healing arts. The term includes any professional corporation or other professional entity comprised of such health care providers as permitted by the laws of this state.

(b) THE TERM DOES NOT INCLUDE A REGISTRANT CONDUCTING UNLICENSED MIDWIFERY PURSUANT TO ARTICLE 37 OF TITLE 12, C.R.S., OR ANY CORPORATE OR BUSINESS ORGANIZATION OR ENTITY COMPRISED OF ONE OR MORE OF SUCH REGISTRANTS. THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 1996.

**SECTION 5.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (25.6) THE FOLLOWING FUNCTION OF THE DIVISION OF REGISTRATIONS SHALL TERMINATE ON JULY 1, 1996: THE REGISTERING OF DIRECT-ENTRY MIDWIVES IN ACCORDANCE WITH ARTICLE 37 OF TITLE 12, C.R.S.

**SECTION 6.** 25-2-112, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-2-112. Certificate of birth.** (2.5) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A REGISTRANT UNDER ARTICLE 37 OF TITLE 12, C.R.S., WHO ATTENDS OR WITNESSES A BIRTH OUTSIDE AN INSTITUTION SHALL PREPARE AND FILE THE CERTIFICATE AS REQUIRED BY SAID SUBSECTION (2). THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 1996.

**SECTION 7. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the fiscal year beginning July 1, 1993, the sum of eleven thousand four hundred sixty-six dollars (\$11,466), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of administration, for allocation to the division of administrative hearings, for the fiscal year beginning July 1, 1993, the sum of one thousand six hundred sixty-eight dollars (\$1,668), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of law, for fiscal year beginning July 1, 1993, the sum of seven hundred ninety-eight dollars (\$798), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund.

**SECTION 8. Effective date - applicability.** This act shall take effect July 1, 1993, and shall apply to acts committed on or after said date.

**SECTION 9. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 8, 1993